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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,428	03/26/2007	Dipan Patel	12587-0266US1	6357

26212 7590 09/03/2010

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EXAMINER	
BARON, JAMES T	

ART UNIT	PAPER NUMBER
2456	

NOTIFICATION DATE	DELIVERY MODE
09/03/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No.	Applicant(s)	
	10/561,428	PATEL, DIPAN	
	Examiner	Art Unit	
	JAMES BARON	2456	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 July 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *112-141* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *112-141* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to the amendments to the instant application filed on 07/08/2010. Claims 112 – 141 have been examined and are currently pending. Claims 1 – 111 have been cancelled by the applicant.

Response to Arguments

1. Applicant's arguments, see Remarks, filed 07/08/2010, with respect to the rejection(s) of the claim(s) under the references US 2008/0176510, hereafter Yuhara, US 2004/0107350, hereafter Wasilewski, and Official Notice have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made. See the following Prior Art rejections for the new reference and explanation of their applications to the instant claims.

2. Applicant's arguments, see Remarks, filed 07/08/2010, with respect to previously presented rejections Official Notice, the Claims there were previously rejected under Official Notice have been cancelled and therefore the previously presented rejections Official Notice are moot. Accordingly, the Official Notice rejections have been withdrawn.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 112, 114, 119 – 121, 122, 124, 129 – 132, 134 and 139 – 141 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poli et al. (WO 00/64178), hereafter Poli and in view of van Lunteren (US 6611832 B1), hereafter Lunteren.

Claims 112, 122 and 132

Poli discloses a system, method and computer product (hereafter a system) comprising:

generating, by a set top box, a trigger to check whether the set top box is to invoke update code that is continuously streamed to the set top box by a server on a predetermined channel (Poli: Page 6, Lines 7 – 10; 16 – 18); and

accessing, by the set top box, an n-bit unique hardware identifier assigned to the set top box (Poli: Page 17, Line 28 – Page 18, Line 4).

The system of Poli further teaches that the set top boxes make a determination is the upgrade is a universal or targeted order (Poli: Page 16, Lines 29 – 30; Page 17, Line 28 – Page 18, Line 4), and that the targeted set top boxes will invoking the update code when they determine that the upgrade is meant for them (Poli: Page 18, Lines 5 – 14).

Although Poli does not expressly teach that that the updating comprises:

receiving, by the set top box in response to the trigger, an m-bit update flag;

comparing, by the set top box, the m-bit update flag to a predetermined portion of the n- bit unique hardware identifier;

determining, based on comparing the m-bit update flag to the predetermined portion of the n-bit unique hardware identifier, that the m-bit update flag matches the predetermined portion of the n-bit unique hardware identifier; and

based on determining that the m-bit update flag matches the predetermined portion of the n-bit unique hardware identifier, invoking, by the set top box, the update code.

a person of ordinary skill in the art would have realized that these steps are a form prefix searching which is utilized by computing systems in searching for specific address and network locations.

Lunteren teaches:

receiving an m-bit update flag (Lunteren: Figures 2, 4 and 7 – 8; Column 10, Lines 10 – 21);

accessing an n-bit unique hardware identifier assigned to a device (Lunteren: Figures 2, 4 and 7 – 8; Column 6, Lines 16 – 19; Column 10, Lines 10 – 21);

comparing the m-bit update flag to a predetermined portion of the n- bit unique hardware identifier (Lunteren: Figures 2, 4 and 7 – 8; Column 6, Lines 1 – 15; Column 10, Lines 16 – 33);

determining, based on comparing the m-bit update flag to the predetermined portion of the n-bit unique hardware identifier, that the m-bit update flag matches the predetermined portion of the n-bit unique hardware identifier (Lunteren: Figures 2, 4 and 7 – 8; Column 6, Lines 16 – 37; Column 10, Lines 21 – 49); and

based on determining that the m-bit update flag matches the predetermined portion of the n-bit unique hardware identifier, invoking the update code (Lunteren: Figures 2, 4 and 7 – 8; Column 6, Lines 16 – 37; Column 10, Lines 49 – 67).

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the prefix searching method taught by Lunteren as the algorithm for targeting specific set top boxes for updating in Poli.

The suggestion/motivation would have been that the prefix searching would be an ideal algorithm to isolate and search for targeted specific single-cast or multi-cast addresses of the set top box terminals.

Claims 114, 124 and 134

Poli in view of Lunteren teaches the system of claims 112, 123 and 133, further comprising determining that the set top box has been booted or rebooted, wherein the trigger is generated based on determining that the set top box has been booted or rebooted (Poli: Page 6, Lines 7 – 10; 16 – 18).

Claims 119, 129 and 139

Poli discloses a system, method and computer product (hereafter a system) comprising:

determining, by a server, a quantity of set top boxes to update (Poli: Page 16, Lines 19 – 28);

determining a quantity, n, of bits in an n-bit unique hardware identifier assigned to each set top box (Poli: Page 17, Line 28 – Page 18, Line 4);

selecting, by the server, a value, m, based on the quantity of set top boxes to update and the quantity, n;

generating, by the server, an m-bit update flag; including, by the server, the m-bit update flag in update code; and

continuously streaming, by the server, the update code, including the m-bit update flag, to the set top boxes on a predetermined channel (Poli: Page 16, Lines 19 – 28).

The system of Poli further teaches that the set top boxes make a determination is the upgrade is a universal or targeted order (Poli: Page 16, Lines 29 – 30; Page 17, Line 28 – Page 18, Line 4), and that the targeted set top boxes will invoking the update code when they determine that the upgrade is meant for them (Poli: Page 18, Lines 5 – 14).

Although Poli does not expressly teach that that the updating comprises:

selecting, by the server, a value, m, based on the quantity of set top boxes to update and the quantity, n (;

generating, by the server, an m-bit update flag; including, by the server, the m-bit update flag in update code; and

the m-bit update flag being included in the continuously streaming update code,

a person of ordinary skill in the art would have realized that these steps are a form prefix searching which is utilized by computing systems in searching for specific address and network locations.

Lunteren teaches:

selecting, by the server, a value, m, based on the quantity of set top boxes to update and the quantity, n (Lunteren: Column 6, Lines 1 – 15);

generating, by the server, an m-bit update flag; including, by the server, the m-bit update flag in update code (Lunteren: Column 6, Lines 1 – 29); and

the m-bit update flag being included in the continuously streaming update code (Lunteren: Column 6, Lines 16 – 29).

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the prefix searching method taught by Lunteren as the algorithm for targeting specific set top boxes for updating in Poli.

The suggestion/motivation would have been that the prefix searching would be an ideal algorithm to isolate and search for targeted specific single-cast or multi-cast addresses of the set top box terminals.

Claims 120, 130 and 140

Poli in view of Lunteren teaches the system of claims 119, 129 and 139, further comprising:

after streaming the update code to the set top boxes, determining a quantity of users that have provided feedback for the update code (Poli: Figure 2; Page 11, Lines 12 – 14; Page 14, Line 30 – Page 15, Line 2).

Claims 121, 131, and 141

The steps of the instant claims are substantially similar to the steps provided in Claims 119, 129 and 139. The instant claims can be performed by a person of ordinary

skill in the art by repeating the steps recited in the above claims, the only difference between the instant claims and the above claims being that a different prefix is determined and utilized by the system for targeting clients to receive updates. The functions being performed by the instant claims and the above claims are otherwise substantially similar.

5. Claims 113, 123 and 133 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poli in view of Lunteren as applied to claims 112, 122 and 132 above, and further in view of Applicant Admitted Prior Art, hereafter AAPA.

Claims 113, 123 and 133

Poli in view of Lunteren teach the system of claims 112, 123 and 133.

Although Poli in view of Lunteren do not expressly teach further comprising determining that the update code is a newer version of code that exists on the set top box, wherein the update code is invoked based on determining that the update code is a newer version of code that exists on the set top box, a person of ordinary skill in the art at the time of the invention would have realized that there are multiple methods to triggering a system update, each of which having the same end result of the system or device actually performing the update.

AAPA teaches comprising determining that the update code is a newer version of code that exists on the set top box, wherein the update code is invoked based on determining that the update code is a newer version of code that exists on the set top box (AAPA: Specification Page11, Line 34 – Page 12, Line 8).

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time of the invention to trigger the updating process upon a determination that an update is available.

The suggestion/motivation would have been to automate the process without the need of human intervention.

6. Claims 115, 118, 125, 128, 135 and 138 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poli in view of Lunteren as applied to claims 112, 122 and 132 above, and further in view of Mitsuo Ando (US 2004/0255263 A1), hereafter Ando.

Claims 115, 125 and 135

Poli in view of Lunteren teach the system of claims 112, 123 and 133.

Although Poli in view of Lunteren do not expressly teach further comprising determining that a predetermined period of time has elapsed, wherein the trigger is generated based on determining that the predetermined period of time has elapsed, a person of ordinary skill in the art at the time of the invention would have realized that there are multiple methods to triggering a system update, each of which having the same end result of the system or device actually performing the update.

.Ando teaches determining that a predetermined period of time has elapsed, wherein the trigger is generated based on determining that the predetermined period of time has elapsed (Ando: Figure 13; Paragraph [0113], Lines 1 – 4; Paragraph [0116], Lines 1 – 5).

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time of the invention to trigger the updating process upon a determination that an a predetermined period of time has elapsed.

The suggestion/motivation would have been to automate the process without the need of human intervention.

Claims 118, 128 and 138

Poli in view of Lunteren teach the system of claims 112, 123 and 133.

Although Poli in view of Lunteren do not expressly teach wherein invoking the update code further comprises identifying a future predetermined time in which the set top box is to download and run other code from the predetermined channel, a person of ordinary skill in the art at the time of the invention would have realized that there are multiple methods to triggering a system update, each of which having the same end result of the system or device actually performing the update.

.Ando teaches wherein invoking the update code further comprises identifying a future predetermined time in which the set top box is to download and run other code from the predetermined channel (Ando: Figure 13; Paragraph [0113], Lines 1 – 4; Paragraph [0116], Lines 1 – 5).

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time of the invention to identify a future time to perform an updating process.

The suggestion/motivation would have been to automate the process without the need of human intervention.

Claims 116 – 117, 126 – 127, and 136 – 137 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poli in view of Lunteren as applied to claims 112, 122 and 132 above, and further in view of Denby et al. (US 6976062 B1), hereafter Denby.

Claims 116, 126 and 136

Poli in view of Lunteren teach the system of claims 112, 123 and 133.

Although Poli in view of Lunteren do not expressly teach further comprising receiving a user selection, wherein the trigger is generated based on receiving the user selection, a person of ordinary skill in the art at the time of the invention would have realized that there are multiple methods to triggering a system update, each of which having the same end result of the system or device actually performing the update.

Denby teaches comprising determining that the update code is a newer version of code that exists on the set top box, wherein the update code is invoked based on determining that the update code is a newer version of code that exists on the set top box (Denby: Figures 2 – 3; Column 6, Lines 51 – 60).

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time of the invention to trigger the updating process upon a determination that an update is available.

The suggestion/motivation would have been to allow human intervention and selection of when to update the system.

Claims 117, 127 and 137

Poli in view of Lunteren teach the system of claims 112, 123 and 133.

Although Poli in view of Lunteren does not expressly teach further comprising receiving a confirmation from the user that the update code is to be invoked, wherein the update code is invoked based on receiving the confirmation from the user, a person of ordinary skill in the art would have recognized that many systems require a user confirmation before undertaking changes to the system which could potentially have harmful consequences to the system.

Denby teaches receiving a confirmation from the user that the update code is to be invoked, wherein the update code is invoked based on receiving the confirmation from the user (Denby: Figures 4 – 7; Column 6, Line 61 – Column 67).

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include a user confirmation for the any user initiated updates or modifications to the system.

The suggestion/motivation would have been that a user confirmation should be performed before undertaking changes to the system which could potentially have harmful consequences to the system to allow the user a chance to stop an unintentional procedure.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure can be seen on the accompanying form PTO-892.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES BARON whose telephone number is (571)270-5661. The examiner can normally be reached on weekdays from 8 - 4 and Wednesday mornings..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. B./
Examiner, Art Unit 2456

/Rupal D. Dharia/
Supervisory Patent Examiner, Art Unit 2400